



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

DAVID C. HOLLISTER
DIRECTOR

Analysis of Enrolled House Bill 4258

Topic: Fingerprint as Legal Signature
Sponsor: Representative Miller
Co-Sponsors: Representatives Drolet, Vagnozzi, Leland, and Kehrl were co-sponsors of the original bill. Seventy-one other House members signed on as co-sponsors when given the opportunity to do so.
Committee: House Government Operations
Senate Judiciary
Date Introduced: February 10, 2005
Date Enrolled: December 1, 2005
Date of Analysis: November 22, 2005

Position: The Department of Labor & Economic Growth is neutral on the bill.

Problem/Background: The so-called Statute on Statutes, Chapter 1 of the Revised Statutes of 1846, defines the words used in statutes. One of the definitions relates to “written” or “in writing”. Current law requires that a written signature be in a person’s handwriting or, if the person is unable to write, by his or her mark. In most cases, the mark of choice is an “X”. This mark may be easily forged.

Description of Bill: The bill amends the 1846 Statute on Statutes. The bill amends Section 3q, which defines the terms “written” and “in writing” as used in Michigan statutes. The bill clarifies that the use of a mark in lieu of a signature where a person is unable to write includes a visible fingerprint of the person making the mark made with ink or another substance. The Senate amended the bill to remove the phrase “including, but not limited to” and substitute “which may be, unless otherwise expressly prohibited by law” after “mark”. The Senate also substituted “clear and classifiable” for “visible” as a requirement for a fingerprint signature.

Summary of Arguments

Pro: The mark most often used by individuals who are unable to write is an “X”. This mark is unfortunately easy to forge and can open the door to identify theft, particularly vulnerable elderly and disabled persons.

The use of a mark as a signature traces its origins in American history back to a time when many persons could not read or write. The use of “X” as a signature tends to stigmatize the user as illiterate or uneducated, an association that is avoided by the use of a fingerprint.

Con: While the purpose of this bill is to protect elderly and disabled persons, the bill could have the opposite effect. A feeble, elderly person with dementia living in a nursing home or other facility could have his or her finger guided to the signature line on a crucial document by an unscrupulous person seeking authorization to do something that wouldn't otherwise be authorized by the "signer".

Fiscal/Economic Impact: The bill would have no fiscal impact.

Other State Departments: The Office of Services to the Aging has expressed concern that the bill could give an unscrupulous person a means of taking advantage of an elderly person.

Any Other Pertinent Information: ARC of Michigan reportedly testified in support of the bill in the House. ARC is advocate for citizens with developmental disabilities.

House Bill 5081, introduced by Representative Drolet, is identical. Both bills were discharged from committee in early September, but House Bill 5081 was later re-referred to committee.

Administrative Rules Impact: The bill would have no impact on administrative rules.